

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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WATERFALL HOMEOWNERS  
ASSOCIATION, *et al.*,

Plaintiffs,

v.

VIEGA, INC, *et al.*,

Defendants.

2:11-cv-01498-JCM -VCF

**O R D E R**

Before the court are defendants Viego, Inc., *et al.*'s notices of related cases. (Docs #44 and #45).

**Background**

The plaintiffs' complaint stems from alleged damages caused by "potable-water-delivery systems [that] utiliz[e] defective high zinc brass Vanguard Viega-brand or Wirsbo Uponor-brand fittings and . . . high zinc content brass plumbing components." (Doc #1). Prior to the filing of the action before this court, plaintiffs' counsel filed a putative class action in the Eighth Judicial District Court of Nevada (subsequently removed to this court) entitled *Fulton Park Unit Owners' Association v. PN II, Inc. d/b/a/ Pulte Homes of Nevada, et al.* (Case No. 11-cv-00783-RCJ-CWH)(hereinafter "*Fulton* action"). The plaintiffs in the *Fulton* action alleged claims relating to defective "high zinc brass plumbing components." Thereafter, plaintiffs' counsel filed another putative class action (subsequently removed to this court) entitled *Robert and Martha Wolinsky v. Carina Corporation* (Case No. 11-cv-00830-RCJ-CWH)(hereinafter "*Wolinsky* action"). The *Wolinsky* action also alleged claims relating to defective brass plumbing components.

On October 27, 2011, Chief Judge Robert C. Jones entered an order in the *Fulton* action comparing the *Fulton* action with the *Wolinsky* action and other similar actions filed in this district. (#43-4 Exhibit D). Judge Jones held that the complaints, all arising out of defective yellow brass

1 plumbing fittings, were “largely duplicative of one another and should all be consolidated.” *Id.* Both  
2 the *Fulton* action and the *Wolinsky* action were consolidated into *Slaughter v. Uponor, Inc.* (Case No.  
3 2:08-cv-01223-RCJ-GWF)(hereinafter “*Slaughter* action”). *Id.* Judge Jones ordered the parties to “file  
4 a notice in the *Slaughter* docket whenever another substantially similar case is filed in or removed to  
5 a court of this District.” *Id.*

6 Pursuant to Judge Jones’ order, on November 21, 2011, defendants filed two notices of related  
7 cases. (Docs #44 and #45). Defendants assert that the action before this court and *Charleston and*  
8 *Jones, LLC, et al v. Uponor, Inc., et. al.* (Case No. 11-cv-1637-KJD-GWF) are “substantially the same”  
9 as the *Slaughter* action. Defendants ask this court to consolidate both of the actions into *Slaughter*,  
10 because Judge Jones is “already familiar with the underlying allegations.” *Id.* Defendants argue that  
11 if the cases are not consolidated, it would result in a “substantial duplication of labor.” *Id.*

#### 12 **Request To Consolidate**

13 Prior to filing the notices of related cases (docs #44 and #45), the defendants filed a motion to  
14 dismiss, or in the alternative, for consolidation into the *Slaughter* action (Case No. 08-cv-01223-RCJ-  
15 GWF). (Doc #43). In the motion, defendants argue that consolidation is necessary because the cases  
16 are substantially similar or even identical in nature. *Id.* Defendants assert that the “class allegations of  
17 the Fulton Park Class Action, the Wolinsky Class Action and the instant [action] are the same or  
18 virtually identical,” and that the proposed class in the instant action is encompassed within the *Fulton*  
19 action’s class. *Id.* Defendants also contend that the alleged defect, relief sought, factual allegations,  
20 and even many parties and attorneys in the class actions (previously consolidated into *Slaughter*)  
21 relating to the defective zinc content in plumbing components are “virtually identical” to those in the  
22 action before this court. *Id.*

23 In the plaintiffs’ opposition (doc #66), they recognize that Judge Jones requested to be notified  
24 of similar defective zinc actions in this district. Plaintiffs’ counsel concedes that “there are a lot of  
25 claims or cases that involve . . . yellow brass plumbing systems,” but assert that they filed the actions  
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1 separately "to preserve individual rights." (Doc #66). Plaintiffs agree with defendants that the similar  
2 actions should be consolidated, but, in light of the fact that many actions are pending in different  
3 districts, argue that consolidation would be better handled by the recently filed multi-district litigation  
4 petition. (Doc #66).

5 **Discussion**

6 In these circumstances, to avoid substantial duplication of labor if the actions were heard by  
7 different district or magistrate judges, the above captioned action shall be reassigned to Chief Judge  
8 Jones and Magistrate Judge Foley. *See* Local Rule 7-2.1. The request to consolidate will be addressed  
9 following reassignment.

10 Accordingly, and for good cause shown,

11 IT IS ORDERED that the above captioned case (Case No. 2:11-cv-01498-JCM-VCF) is  
12 REASSIGNED to Chief Judge Jones and Magistrate Judge Foley for all further proceedings.

13 DATED this 18th day of January, 2012.

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17 UNITED STATES DISTRICT JUDGE  
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